## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:17-cv-283-FDW

JAMES A. MINYARD,	)	
Plaintiff,	)	
VS.	)	<u>ORDER</u>
ERIK A. HOOKS, et al.,	)	
Defendants.	)	
	)	

**THIS MATTER** is before the Court on Plaintiff's *pro se* "Motion Under Discovery," (Doc. No. 44), in which he seeks the appointment of counsel.

In support of his Motion, Plaintiff states that he is unable to afford counsel, has no access to law books, and lacks the ability to make photocopies, and needs the assistance of counsel to engage in discovery.

There is no absolute right to the appointment of counsel in civil actions such as this one. Therefore, a plaintiff must present "exceptional circumstances" in order to require the Court to seek the assistance of a private attorney for a plaintiff who is unable to afford counsel. <u>Miller v. Simmons</u>, 814 F.2d 962, 966 (4th Cir. 1987). This case does not present exceptional circumstances that justify appointment of counsel. Therefore, Plaintiff's motion to appoint counsel will be denied.

To the extent that Plaintiff seeks discovery, he must address his requests to the appropriate party or parties. See LCvR 26.2 ("The parties shall not file any initial disclosures, designations of expert witnesses and their reports, discovery requests or responses therto, deposition transcripts, or other discovery material unless: (1) directed to do so by the Court; (2) such materials are

necessary for use in an in-court proceeding; or (3) such materials are filed in support of, or in opposition to, a motion or petition."); (Doc. No. 42) (Pretrial Order and Case Management Plan).

## IT IS THEREFORE ORDERED that:

- (1) Plaintiff's "Motion Under Discovery," (Doc. No. 44), is construed as a Motion for the Appointment of Counsel and is **DENIED**.
- (2) Plaintiff is instructed to direct his discovery requests to the appropriate party or parties in accordance with the applicable procedural rules and Pretrial Order and Case Management Plan.

Signed: October 17, 2018

Frank D. Whitney

Chief United States District Judge